



Reprinted
January 25, 2008

HOUSE BILL No. 1122

DIGEST OF HB 1122 (Updated January 24, 2008 4:05 pm - DI 106)

Citations Affected: IC 31-30; IC 31-37.

Synopsis: Juvenile offenders and detention facilities. Provides that the juvenile law does not apply to a child who: (1) is alleged to have committed a crime that would be a felony if committed by an adult; and (2) has previously been waived to a court having felony jurisdiction. (Under current law, the juvenile law does not apply to felonies and misdemeanors committed under these circumstances.) Provides that the juvenile law applies to a child who allegedly committed a violation of traffic law. Provides that a juvenile court does not have jurisdiction over an alleged violation of a child charged with carrying a handgun without a license or dangerous possession of a firearm as a felony (rather than a felony or misdemeanor), or if the child has a prior unrelated conviction or adjudication. Provides that a juvenile court may waive jurisdiction if a child is charged with certain acts that are felonies (rather than felonies and misdemeanors). Provides that any facility that is used or has been used to house or hold juveniles shall give the Indiana criminal justice institute access to inspect and monitor the facility.

Effective: July 1, 2008.

Reske, Austin

January 8, 2008, read first time and referred to Committee on Judiciary.
January 16, 2008, amended, reported — Do Pass.
January 24, 2008, read second time, amended, ordered engrossed.

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HB 1122—LS 6901/DI 107+



Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1122

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-30-1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Except as provided
3 in IC 33-33-45-6 and section 8 of this chapter, the juvenile law does
4 not apply to the following:

5 ~~(1) A child at least sixteen (16) years of age who allegedly~~
6 ~~committed a violation of a traffic law, the violation of which is a~~
7 ~~misdemeanor, unless the violation is an offense under IC 9-30-5.~~

8 ~~(2) (1) A child who is alleged to have committed a violation of a~~
9 ~~statute defining an infraction, except as provided under~~
10 ~~IC 7.1-5-7.~~

11 ~~(3) (2) A child who is alleged to have committed a violation of an~~
12 ~~ordinance.~~

13 ~~(4) (3) A child who:~~

14 (A) is alleged to have committed an act that would be a ~~crime~~
15 **felony** if committed by an adult; and

16 (B) has previously been waived under IC 31-30-3 (or
17 IC 31-6-2-4 before its repeal) to a court having ~~misdemeanor~~

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1 or felony jurisdiction.

2 SECTION 2. IC 31-30-1-4, AS AMENDED BY P.L.216-2007,
3 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2008]: Sec. 4. (a) The juvenile court does not have jurisdiction
5 over an individual for an alleged violation of:

- 6 (1) IC 35-41-5-1(a) (attempted murder);
7 (2) IC 35-42-1-1 (murder);
8 (3) IC 35-42-3-2 (kidnapping);
9 (4) IC 35-42-4-1 (rape);
10 (5) IC 35-42-4-2 (criminal deviate conduct);
11 (6) IC 35-42-5-1 (robbery) if:
12 (A) the robbery was committed while armed with a deadly
13 weapon; or
14 (B) the robbery results in bodily injury or serious bodily
15 injury;
16 (7) IC 35-42-5-2 (carjacking);
17 (8) IC 35-45-9-3 (criminal gang activity);
18 (9) IC 35-45-9-4 (criminal gang intimidation);
19 (10) IC 35-47-2-1 (carrying a handgun without a license), if:

- 20 (A) charged as a felony; or
21 (B) the individual has:
22 (i) a prior unrelated conviction; or
23 (ii) an unrelated adjudication as a delinquent child for an
24 act that would be an offense under IC 35-47-2-1 if
25 committed by an adult;

- 26 (11) IC 35-47-10 (children and firearms), if:
27 (A) charged as a felony; or
28 (B) the individual has:
29 (i) a prior unrelated conviction; or
30 (ii) an unrelated adjudication as a delinquent child for an
31 act that would be an offense under IC 35-47-10 if
32 committed by an adult;

- 33 (12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
34 (13) any offense that may be joined under IC 35-34-1-9(a)(2) with
35 any crime listed in subdivisions (1) through (12);
36 if the individual was at least sixteen (16) years of age at the time of the
37 alleged violation.

38 (b) The juvenile court does not have jurisdiction for an alleged
39 violation of manufacturing or dealing in cocaine or a narcotic drug
40 (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing
41 in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing
42 in a schedule IV controlled substance (IC 35-48-4-3), if:

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1 (1) the individual has a prior unrelated conviction under
 2 IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or
 3 (2) the individual has a prior unrelated juvenile adjudication that,
 4 if committed by an adult, would be a crime under IC 35-48-4-1,
 5 IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;
 6 and the individual was at least sixteen (16) years of age at the time of
 7 the alleged violation.

8 (c) Once an individual described in subsection (a) or (b) has been
 9 charged with any crime listed in subsection (a) or (b), the court having
 10 adult criminal jurisdiction shall retain jurisdiction over the case even
 11 if the individual pleads guilty to or is convicted of a lesser included
 12 offense. A plea of guilty to or a conviction of a lesser included offense
 13 does not vest jurisdiction in the juvenile court.

14 SECTION 3. IC 31-30-3-2 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Upon motion of the
 16 prosecuting attorney and after full investigation and hearing, the
 17 juvenile court may waive jurisdiction if it finds that:

18 (1) the child is charged with an act **that is a felony:**

19 (A) that is heinous or aggravated, with greater weight given to
 20 acts against the person than to acts against property; or

21 (B) that is a part of a repetitive pattern of delinquent acts, even
 22 though less serious;

23 (2) the child was at least fourteen (14) years of age when the act
 24 charged was allegedly committed;

25 (3) there is probable cause to believe that the child committed the
 26 act;

27 (4) the child is beyond rehabilitation under the juvenile justice
 28 system; and

29 (5) it is in the best interests of the safety and welfare of the
 30 community that the child stand trial as an adult.

31 SECTION 4. IC 31-37-4-4 IS ADDED TO THE INDIANA CODE
 32 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2008]: **Sec. 4. Any facility that is used or has been used to house
 34 or hold juveniles shall give a representative or designee of the
 35 Indiana criminal justice institute's compliance monitoring
 36 program reasonable access to inspect and monitor the facility to
 37 ensure that the requirements of the Juvenile Justice and
 38 Delinquency Prevention Act are maintained.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1122, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 22, delete "detain" and insert "**house or hold**".

Page 3, line 23, after "representative" insert "**or designee**".

and when so amended that said bill do pass.

(Reference is to HB 1122 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 9, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1122 be amended to read as follows:

Page 2, line 19, delete "if" and insert "if:

(A) **charged as a felony; or**

(B) **the individual has:**

(i) **a prior unrelated conviction; or**

(ii) **an unrelated adjudication as a delinquent child for an act that would be an offense under IC 35-47-2-1 if committed by an adult;".**

Page 2, delete line 20.

Page 2, line 21, delete "if charged as a felony;" and insert "if:

(A) **charged as a felony; or**

(B) **the individual has:**

(i) **a prior unrelated conviction; or**

(ii) **an unrelated adjudication as a delinquent child for an act that would be an offense under IC 35-47-10 if committed by an adult;".**

(Reference is to HB 1122 as printed January 17, 2008.)

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